



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0266-20
2. Advertiser :	IAG Insurance
3. Product :	Insurance
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	9-Sep-2020
6. DETERMINATION :	Upheld - Modified or Discontinued
7. IR Recommendation:	Reconfirm the Original Decision

ISSUES RAISED

AANA Code of Ethics\2.3 Violence
AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This television advertisement is for NRMA Insurance and features various scenes involving bushfires.

The advertisement begins with the sound of sirens and footage of two firefighters putting protective gear on in the back of a vehicle. A voice over the radio says, "Respond to bushfire Davis Lane, Ashburg". A firefighter in the passenger seat responds, "Responding to Davis Lane, Ashburg" and provides detail of the vehicle. The voice over the radio says, "potential for the fire to be a couple of kilometres".

The words, "Ash Wednesday 16.02.1983" appear on a black background.

The vehicle is shown moving through a smoky landscape. A lot of panicked voices can be heard. A car driving in the other direction honks at them as it goes past.

The words, "Black Friday 07.01.1994" appear on a black background.

Close ups of the faces of the two young firefighters in the back of the vehicle are shown, they look frightened. A voice over the radio says, "we're at least half an hour away. We're having trouble sourcing. You are currently on your own. I repeat. You are currently on your own".



The words, "Black Saturday 07.02.1999" appear on a black background.

The vehicle is shown driving past trees which are on fire. The vehicle is surrounded by black smoke. A firefighter is stating numbers into the radio.

The words, "New Years Day 01.01.2020" appear on a black background.

The firefighters are shown in the vehicle surrounded by fire. One of the firefighters says, "righto guys get all your gear on. Stevo you're on the pump, everyone else in the back you're on the hoses. Let's go. Stay safe. Stay safe." The firefighters climb out of the vehicle.

The camera shows a view of the bushfire outside the windscreen. The words, "For all the days we felt we couldn't help, now there's a day we can" are superimposed over the scene.

The words, "First Saturday, 05.09.2020 appear on a black background", followed by, "Dedicate the first Saturday of every month towards making your home safer".

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

The fire fighters should not be leaving the truck at the time based on the scenario they do not have PPE.

This advertisement causes distress that the young boy in the back is going to die or be injured in the fire. As a mother of 2 boys who volunteer I do not wish to see this nor as a wife. This will not encourage people to volunteer and the people that benefit are nrma.....

*As a RFS volunteer who fought bushfires for 42 days last summer and lost our home I find the NRMA first Saturday ad campaign very disturbing and in poor taste. NRMA were not in the fireground to assist & we don't need it shoved in our face. Also, the ads don't tell us anything, just sensationalism. The campaign seems to be designed to reduce NRMA insurance liabilities not help first responders
How does it help me?
How thoughtless*

As a parent of a young RFS volunteer I find this extremely disturbing and upsetting, as this could be my son in a few months time. Friends who are firefighters in RFS and have been for many years find it disturbing and causing them to relive frightening experiences. It has been a source of upset on a nightly basis, when the ad comes on and my husband rushes to switch channels.

THE ADVERTISER'S RESPONSE



Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

1. About NRMA Insurance

Insurance Australia Group (IAG) is a leading general insurer in Australia and New Zealand and the founding member of the Australian Business Roundtable for Disaster Resilience and Safer Communities. At IAG, our purpose is 'to make your world a safer place'.

NRMA Insurance has a history of helping Australians in times of need since 1925. We are a trusted insurance brand of IAG's, operating across NSW, QLD, the ACT and TAS.

NRMA Insurance has played a significant role in the community since its inception, including in the areas of community safety, disaster recovery and mitigation. NRMA Insurance is a proud sponsor of the NSW State Emergency Services (SES). More recently, NRMA Insurance has established a 3-year partnership with the NSW Rural Fire Service (RFS), helping to support RFS volunteers.

2. Background to the TV Ad

The powerful dual forces of the bushfires and the COVID-19 pandemic have caused significant shifts in the culture and collective mindset of Australians. Community, benevolence and selflessness, all wrapped up in a newfound national pride, inspired our latest preparedness campaign for NRMA Insurance – 'First Saturday'.

The sixty second First Saturday television commercial (TV Ad) is part of our broader purpose-driven campaign aligned with IAG's purpose of 'making our world a safer place'. The TV Ad calls on Australians to do one small safety task around their homes on the first Saturday of every month, to help protect the safety of first responders being called to danger. For example, we are encouraging members of the community to ensure they have a fire blanket, as most house fires can be prevented with the use of one but ABS statistics show only 14.5% of households actually own one.

The TV Ad features a re-enactment of a bushfire response by real RFS volunteers, to draw attention to the important services undertaken by first responders and to inspire the community to get involved with the 'First Saturday' safety task activities.

3. Involvement of partners

In developing the TV Ad and wider First Saturday campaign, we partnered with the RFS, Australian Red Cross and the SES (Campaign Partners) and sought their input throughout the process. We consulted with our Campaign Partners throughout the development of the campaign and TV Ad. In particular, our Campaign Partners were heavily involved in helping to:

- develop scenarios depicted across all campaign creative (TV, OOH, etc) to ensure authenticity;*
- provide feedback on the appropriateness of any safety equipment depicted in the TV Ad (helmets, masks, etc);*
- correctly describe the 'First Saturday' monthly home safety tasks which we'll be communicating throughout the year;*



- *select appropriate times of the year to communicate certain home safety tasks, to ensure they are relevant and helpful for the related natural disaster season (bushfire, storm, etc);*
- *source Campaign Partner volunteers to be featured in the TV Ad and other campaign elements, such as interviews and stills to be used in OOH; and*
- *review campaign materials.*

Our partnership with the RFS in particular allowed us to feature real life RFS volunteers, rather than actors. This helped us to demonstrate the nature of an authentic bushfire call-out, which reflects the experience of volunteers, without being extreme or compromising their safety. We also had RFS safety experts on set during filming to ensure all safety protocols were being observed and enforced. These RFS safety experts and volunteers also provided guidance to the production crew on the appropriate safety precautions that would be required for the scenes depicted in the TV Ad.

The RFS is committed to helping NRMA Insurance achieve the objective of the campaign and the positive message it communicates. To support the important message of the First Saturday campaign, the RFS has shared the TV Ad with their volunteer network.

4. Description of the TV Ad

The aim of the TV Ad is to introduce the First Saturday campaign to the community, by showing that, while we have always dedicated days to remember Australia's worst bushfire disasters, we are now dedicating one day of each month to prevention. The TV Ad depicts a small group of firefighters travelling in a truck as they prepare to respond to a bushfire. Scenes inside the truck show the firefighters responding to a radio call, putting on their jackets and helmets as they head to the scene of the fire.

We see their faces and realise that these people aren't superheroes. They're mothers, brothers, fathers. Humans. They represent all first responders. We feel the bumps in the road. We hear the crackle of the radio and the rattle of the truck equipment. The feeling is emotive and real – this is crucial to communicating the risks faced by first responders and helping to drive behavioural change in the community.

The TV Ad is punctuated throughout with titles screens that display the names of some of Australia's most significant bushfire disasters: Ash Wednesday, 1983; Black Thursday, 1851; Black Friday, 1994; Black Saturday, 2009; New Year's Day, 2020.

Outside of the fire truck, we see the smoke become heavier and the glow of the fire is visible as the truck reaches its destination. In the final scene, the firefighters pile out of the truck, with one of the firefighters telling his team to "stay safe".

Title screens then appear to introduce our First Saturday campaign message, to encourage the community to support first responders by dedicating the first Saturday of each month to making our homes safer:

For all the days we felt we couldn't help,



now there's a day we can.

First Saturday / 05.09.2020

Dedicate the first Saturday of every month to making your home safer.

HELP / NRMA Insurance

5. The Complaints

The 3 complaints received by Ad Standards allege that the TV Ad: presents or portrays violence (Section 2.3 of the AANA Code (Code)); and depicts unsafe behaviour contrary to Prevailing Community Standards on health and safety (Section 2.6 of the Code).

The complaints specifically reference the following issues:

- that the TV Ad shows firefighters leaving a truck in what appears to be an unsafe scenario and exceeding capabilities;*
- the firefighters in the TV Ad should not be leaving the truck not wearing PPE;*
- that the TV Ad causes distress that a firefighter is going to be harmed in the fire;*
- that the TV Ad is sensationalist; and*
- is causing viewers to relive frightening experiences.*

6. Feedback in relation to the TV Ad

We have been delighted with the positive and meaningful response we have received from NRMA Insurance customers, the general public, staff members and RFS first responders in relation to the TV Ad. We provide a sample of that feedback below:

YouTube comment: Nice video! I like the way it has been put together. As a first responder in the NSW RFS I know exactly what this experience is like, especially in the wake of last season's catastrophic fires. Thanks for putting this out there! It's nice to be able to show the public a snapshot of what it's like to go into these sometimes life-threatening situations. But I think it's one of the best jobs in the world. Thanks guys.

Facebook comment from the Gilston/Advancetown Rural Fire Brigade: A fantastic initiative to be put out there for all to see. Very impressed. Thank you.

7. NRMA Insurance's Submission

For the reasons below the complaint should be dismissed.

7.1 Discrimination or Vilification (Section 2.1 of the Code)

There is no discrimination or vilification depicted in the TV Ad.

7.2 Exploitative and Degrading (Section 2.2 of the Code)

There is no exploitative or degrading content depicted in the TV Ad.

7.3 Violence (Section 2.3 of the Code)



We note that Section 2.6 of the Code states: “Advertising or Marketing Communication shall not present or portray violence unless it is justifiable in the context of the product or service advertised.”

NRMA Insurance does not condone or tolerate violence of any kind. We strongly assert that the TV Ad does not portray any form of violence or menace and does not contravene this section of the Code.

The scenes portrayed in the TV Ad have been constructed in close consultation with the RFS to create both an accurate and safe depiction of activities RFS volunteers would be expected to undertake as part of their service in responding to a bushfire. Feedback was sought from RFS throughout development as to the appropriateness of the TV Ad. and we worked closely with RFS safety experts to ensure that the actions of the firefighters, including in driving to the scene of the fire and exiting the truck, were reasonable, appropriate and in accordance with relevant RFS protocols.

The audio and visual elements of the TV Ad give viewers an insight into the experience and inherent risks that firefighters face when responding to a bushfire emergency. The TV Ad does not show anyone being injured or harmed, and there is no suggestion that the firefighters are taking any actions

that would be considered inappropriate or unreasonably unsafe in the context of their role. The radio dialogue and commands in the TV Ad simulate a normal exchange between firefighters attending a bushfire emergency and the firefighters’ voices are controlled at all times.

The scenes are intended to be emotionally impactful, however, we believe this is justifiable in the context of an important campaign which aims to inspire the community to take action to minimise risks around the home. We strongly believe that most members of the community would not be alarmed or distressed by the TV Ad and that although emotive, the scenes are not sensationalist.

We further note that previous Ad Standards decisions (0399-19 and 0245/17) support our view that there is no depiction of violence in the TV Ad, and any emotionally impactful content is justifiable in the context.

Further, the TV Ad is in accordance with the Australian Advertising Standards. The CAD classification number provided below for the TV Ad includes a PG rating (a lower rating than most movies shown at the same timeslots).

7.4 Sex, sexuality and nudity (Section 2.4 of the Code)

There is no sex, sexuality or nudity in the TV Ad

7.5 Language (Section 2.5 of the Code)

There is no strong or obscene language used in the TV Ad.



The TV Ad does not feature any professional actors. All talent in the fire truck and on the radio are genuine RFS volunteers. The language used throughout the TV Ad was not scripted. The RFS volunteers were asked to simulate a conversation, as if they were actually attending a bushfire emergency. At all times during the TV Ad, the firefighters' voices are controlled and the situation does not come across as being out of control.

7.6 Health and Safety (Section 2.6 of the Code)

We note that Section 2.6 of the Code states: "Advertising or Marketing Communication shall not depict material contrary to Prevailing Community Standards on health and safety."

Prevailing Community Standards are defined in the Code to mean: "the community standards determined by the Ad Standards Community Panel as those prevailing at the relevant time in relation to Advertising or Marketing Communication."

NRMA Insurance is committed to the safety of our customers and the wider community, as demonstrated by our brand spirit of 'Help', and IAG's purpose of 'making your world a safer place', and our key community partnerships and activities.

We strongly assert that the TV Ad does not contravene this section of the Code. While the TV Ad depicts an emergency situation, NRMA Insurance gave careful consideration to relevant safety practices and requirements throughout development of the TV Ad and on-set at the shoot. Both IAG

and RFS representatives on the shoot did not believe the firefighters depicted in the TV Ad were shown to be leaving the fire truck in a situation that has exceeded their capabilities at the time.

RFS Volunteers

As outlined above, the TV Ad does not feature professional actors. All talent are genuine RFS volunteers who have training and experience in responding to real-life bushfire emergency events. The radio dialogue/commands are a simulation by these RFS volunteers of a real life bushfire scenario.

The location referenced in the radio dialogue in the TV Ad is "Ashburg", which is in fact a fictional location used by the RFS as part of their training. This location was intentionally used to signal to RFS volunteers that may view the TV ad that it was created and filmed under controlled conditions.

Further, as the firefighters are seen exiting the truck, one can be heard saying "stay safe, stay safe" to the rest of his team. This demonstrates that safety is front of mind for firefighters in the scenario and was of utmost importance to NRMA Insurance during the TV Ad shoot.

Safety Checks



Throughout development and shooting of the TV Ad (script level, pre-production, during the shoot and at the edit stage) we worked closely with the RFS safety experts to ensure that the content we captured was an accurate and safe depiction of a bushfire scenario RFS volunteers could be expected to respond to. The RFS was heavily involved on set during filming, providing advice as to appropriate safety precautions.

Importantly, the RFS provided advice to avoid any unsafe events, specifically “flame over situations”. During such an incident, all fire curtains on the truck would be closed, fire sprinklers activated and RFS crew would not be allowed to leave the vehicle until support crews arrived. Paying close attention to RFS advice, NRMA Insurance ensured that no unsafe “flame over situations” were shown in the TV Ad.

On this basis and on RFS advice, we would disagree with a view that it would be unsafe for the firefighters to exit the truck in the scenario shown in the TV Ad, or that the scenario had exceeded their capabilities.

Personal Protection Equipment

We disagree with a view that the firefighters in the TV Ad are not depicted using appropriate personal protection equipment (PPE).

As advised to NRMA Insurance by the RFS safety experts, due to the nature and duration of the bushfires that RFS volunteers respond to, they cannot be expected to use the same level of PPE that domestic firefighters might use.

We believe that the jackets, helmets and face shields that the firefighters are seen wearing in the TV Ad as they exit the vehicle is an accurate depiction of the PPE that RFS volunteers are equipped with as they attend this type of bushfire.

Campaign objective - Health and Safety

We believe that it is important to note that, while the TV Ad depicts an emergency situation, the objective of the TV Ad and wider First Saturday campaign is to help make our communities safer.

The TV Ad is designed to convey the risks faced by first responders and introduce the concept that what we do when in times of safety and calm can help prevent our first responders being called to an emergency and danger. The broader First Saturday campaign involves encouraging the community to undertake 12 monthly tasks which will help make homes safer, reducing the burden on first responders – these tasks are outlined at <https://www.nrma.com.au/firstsaturday>.

7.7 Distinguishable as advertising (Section 2.7 of the Code)



The TV Ad is clearly distinguishable as advertising. There is clear and prominent branding, with the recognisable 'HELP' and NRMA Insurance logos displayed in the TV Ad.

8. Closing submission

We thank Ad Standards for the opportunity to provide these submissions in relation to the complaint.

In an effort to demonstrate IAG's purpose of 'Making your world a safer place' and bring the NRMA Insurance brand spirit of 'Help' to life, our objective was to deliver a campaign which focuses on prevention. The work we all do around our homes when it's safe can help minimise the dangers faced by first responders when it's not. The fire scenes depicted in the TV Ad are designed to help illustrate this important message.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants' concerns that the advertisement:

- is extremely disturbing and upsetting
- is distressing in the suggestion that the young male in the back of the vehicle will die
- uses bushfire footage which is not relevant to the business being promoted
- features firefighters who were not wearing the correct PPE to be leaving the truck based on the scenario they were in

The Panel viewed the advertisement and noted the advertiser's response.

The Panel considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Panel noted that the Practice Note for section 2.3 of the Code includes the following:

"The Community Panel has also found that a strong suggestion of menace presents violence in an unacceptable manner and breaches this section of the Code."

The Panel noted the advertiser's response that the advertisement does not contain any form of violence or menace, and any emotional impact of the content is justifiable in the context.

The Panel considered whether the advertisement contained violence or menace.



The Panel did not accept the advertiser's submission that the advertisement does not contain any form of violence or menace. The Panel concluded that "Violence" need not refer solely to harm or potential harm caused deliberately by one person to another, and would extend to real or potential harm caused by accidents or natural disasters. The Panel noted that the previous determinations identified by the advertiser (0399-19 and 0245/17) were examples of the Panel finding that advertisements containing no graphic violence against humans could still be assessed with reference to whether the depiction of risk or harm to humans or animals was justified in the context of the advertiser's message. The Panel also referred to previous decisions relating to automotive safety, where depictions of harm (or potential harm) to vehicle drivers or passengers was considered to be appropriately assessed under Section 2.3 of the Code, even if the potential violence in the advertisement was not deliberately caused by a human.

The Panel noted the fearful faces of the firefighters, the sounds of the sirens, panicked voices and the vision of the thick smoke and roaring flames and considered that these combined to create a very strong impression of threat and menace. The Panel considered that the use of dramatic music, and of text referring to previous well-known deadly bushfire incidents, made it clear that the advertiser's intention was for the advertisement to evoke feelings of fear and foreboding in the viewer. The Panel considered that these visual and audio effects of the advertisement combined to create the impression that the firefighters were heading into a very dangerous situation and were at risk of imminent death or serious harm.

A minority of the Panel considered that the advertiser's call to action to undertake safety tasks at home was a message which justified the use of the menacing images. A minority of the Panel considered that insurance was a product which was linked with the loss of property and life and the use of the recreated bushfire footage was justifiable in advertising this brand.

The majority of the Panel, however, considered that the link between the message of the advertisement and the footage was insufficiently clear. The majority of the Panel considered that the firefighters shown were clearly in a dangerous bushfire situation, and not, for example, a household fire.

The Panel noted that the Australian bushfires of the 2019-2020 summer had affected an enormous number of Australians. The majority of the Panel considered that a reminder of this recent, horrific event would be very distressing to many people who had been directly or indirectly affected by the fires. The Panel considered that the scenes shown in the advertisement were realistic, and were linked to real events in which firefighters and others had lost their lives. The majority of the Panel considered that the use of the menacing footage, which would be distressing to many people viewing this advertisement, was not justified in the context of providing a home safety message and promoting an insurance brand.

Accordingly, the Panel determined that the advertisement breached section 2.3 of the Code.



The Panel considered whether the advertisement was in breach of Section 2.6 of the Code. Section 2.6 of the Code states: “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety”.

The Panel noted the complainants’ concerns that the advertisement features firefighters who were not wearing the correct PPE to be leaving the truck in the scenario portrayed.

The Panel noted the advertiser’s response that the jackets, helmets and face shield that the firefighters are seen wearing is an accurate depiction of what RFS volunteers would be equipped with when facing this type of bushfire. The Panel further noted the advertiser’s response that they had received advice from the RFS that in the situation depicted it would have been appropriate for the firefighters to leave the vehicle.

The Panel noted that the firefighters can clearly be seen putting on and wearing protective equipment. The Panel noted that as the firefighters are leaving the vehicle, one man is giving instructions to the others about where they should be, and that his instructions included the words ‘stay safe’.

The Panel considered that the advertisement contained a realistic and emotive scene of firefighters in a bushfire, and although the situation itself was unsafe the firefighters were seen acting in accordance with their role, and following clear procedures. The Panel considered that most members of the community would consider firefighters leaving a vehicle, while wearing protective gear, to fight a fire is a realistic depiction and would not be against prevailing community standards on health and safety.

The Panel considered that the advertisement did not depict material contrary to prevailing community standards on health and safety and did not breach Section 2.6 of the Code.

Finding that the advertisement did breach section 2.3 of the Code, the Panel upheld the complaints.

THE ADVERTISER’S RESPONSE TO DETERMINATION

The ‘First Saturday’ TV Ad is part of our broader purpose-driven campaign aligned with IAG’s purpose of ‘making our world a safer place’. The TV Ad calls on Australians to do one small safety task around their homes on the first Saturday of every month, to help protect the safety of first responders being called to danger.



The TV Ad features a re-enactment of a bushfire response by real RFS volunteers, to draw attention to the important services undertaken by first responders and to inspire the community to get involved with the 'First Saturday' safety task activities.

Whilst we do not believe that the TV Ad breaches section 2.3 of the Code, we are pleased with the panel's view that the TV Ad does not breach section 2.6 of the Code. In light of the panel's decision:

- We have already updated the TV Ad with a disclaimer that the TV Ad is a re-enactment and does not include real footage (Disclaimer: 'The following was filmed under controlled circumstances and is a re-enactment using real NSW RFS volunteers'); and
- We will take steps to discontinue airing the TV Ad by no later than Wednesday September 30.

The advertiser requested an independent review of the Panel's determination.

INDEPENDENT REVIEWER'S RECOMMENDATION

I note that, in objecting to the finding by the majority of the Panel, the advertiser provided further material not available to the Panel. That material provides complementary advertising material which was part of the call to action 'First Saturday' campaign for people to improve their home safety prior to the forthcoming bushfire season.

Background

The complaint relates to a 60 second 'First Saturday' television advertisement by NRMA Insurance trading as the general insurer, IAG Insurance. The advertisement is part of a series on fire prevention. The wider campaign material supplied for the purpose of the review, refers to the 43,000 volunteers for the NSW State Emergency Service and encourages viewers on the first Saturday of each month to protect these first responders by making their homes safer against the risk of fire. The advertisement under consideration refers to the campaign and is a call to action for people to 'make your home safer'.

That advertisement begins with the sound of sirens and footage of two firefighters putting on protective gear in the back of the fire-fighting vehicle prior to attendance at a fire. The words 'Ash Wednesday 16.02.1983' appear on a black background. The vehicle moves through a background. Voices of firefighters are heard. An oncoming car honks as it goes past.

- The words 'Black Friday 04.01.1994' appear on a black background. This is followed by a close-up of two young firefighters in the back of the vehicle shown, looking tense. The radio messages 'We're at least half an hour away. We're having trouble sourcing. You are currently on your own. I repeat. You are currently on your own'.



- The words 'Black Saturday 07.02.1999' appear on a black background. The vehicle is shown driving past trees on fire. The vehicle is surrounded by black smoke. A firefighter states numbers into the radio.
- The words 'New Year's Day 01.01.2020' appear on a black background. The firefighters are shown in the vehicle surrounded by fire. One of the firefighters says, 'righto guys get all your gear on. Stevo you're on the pump, everyone else in the back you're on the hoses. Let's go. Stay safe. Stay safe'. The firefighters climb out of the vehicles.
- The camera shows a view of the bushfire outside the windscreen. The words 'For all the days we felt we couldn't help, now there's a day we can' are superimposed over the scene
- The words 'First Saturday, 05.09.2020' appear on a black background followed by 'Dedicate the first Saturday of every month to making your home safe'.

Complaints

These included the following:

- Advertisement triggers frightening and traumatic memories of bushfire emergencies of recent years.
- Fire fighters appear to be leaving a truck in a situation that has exceeded capabilities at the time. The fire fighters should not be leaving the truck at the time based on the scenario they do not have PPE.
- ...advertisement causes distress that the young boy in the back is going to die or be injured in the fire. As a mother of 2 boys who volunteer I do not wish to see this nor as a wife. This will not encourage people to volunteer and the people that benefit are nrma.....
- As an RFS volunteer who fought bushfires for 42 days last summer and lost our home I find the NRMA first Saturday ad campaign very disturbing and in poor taste.... The campaign seems to be designed to reduce NRMA insurance liabilities not help first responders.
- As a parent of a young RFS volunteer I find this extremely disturbing and upsetting, as this could be my son in a few months time. Friends who are firefighters in RFS and have been for many years find it disturbing and causing them to relive frightening experiences. It has been a source of upset on a nightly basis, when the ad comes on and my husband rushes to switch channels.
- I cannot see the correlation between a monthly day of help to make our homes safer and a fire crew in a fire storm in the bush.
- ...it is not about whether the depiction was accurate or not, it is about the harm, fear and menace that the imagery causes the viewer. It's about the impact of the message, not whether it was legally accurate.
- If IAG wants to run a campaign of how to keep our homes safe, show practical tips that help the community not sensationalism from life events that are still raw in people's minds.
- I had to watch it 3 times to recognise the small print outlining the need to dedicate the first Sat. of each month
- I appreciate that NRMA are supporting community services but I still feel the advertisement is distressing and of little value in terms of encouraging people



to clean up properties etc and have a fire plan. That is not the message I was getting from the advertisement.

The issues

The issues are whether the advertisement breaches the AANA Code of Ethics (Code) section 2.3 in that it depicts 'violence' that is not justifiable in the context of the product or service advertised'. A related complaint that it also breached section 2.6 of the Code, namely, material contrary to prevailing community standards on health and safety, was not upheld.

Outcome of initial complaints

The AdStandards Community Panel (Panel), by majority, found the advertisement did breach section 2.3 of the Code. The Panel majority concluded that 'violence' need not refer solely to harm or potential harm caused deliberately by one person to another, and would extend to real or potential harm caused by accidents or natural disasters.

The Panel majority found that 'the link between the message of the advertisement and the footage was insufficiently clear' and that the 'menacing footage, ...would be distressing to many people viewing this advertisement, was not justified in the context of providing a home safety message and promoting an insurance brand'.

A minority considered the advertiser's call to action to undertake safety tasks at home justified the use of the menacing images.

Advertiser's request for review

The advertiser's response to the review was:

- To deny the characterisation as creating a 'very strong impression of threat and menace';
- To note that even if this was so, the advertisement was justifiable in the context of the safety campaign;
- To point out that NRMA has a three year contract to support the NSW Rural Fire Service and partnered with them, the Australian Red Cross and the State Emergency Service to create an accurate and safe depiction of activities volunteers would be involved in when responding to a bushfire;
- To deny the suggestion that there are panicked voices in the advertisement;
- To note that the AANA Practice Note to the Code states that 'a strong suggestion of menace presents violence in an unacceptable manner'.
- To maintain, that the advertisement is 'emotionally impactful without creating a sense of alarm or distress';
- To assert that the Panel majority had mischaracterised the purpose of the advertisement by describing the 'product' as insurance. The advertisement should properly be seen as a call to action to increase the preparedness of homes and properties in advance of the bushfire season and therefore decrease the very real risk to firefighter. This was a 'substantial flaw' in the construction of the Code and the related Practice Note;



- To assert that the finding of the Panel majority was inconsistent with AdStandards findings in comparable advertisements depicted in three cases where the graphic imagery was considered justifiable:
 - Case 0435/16 by NSW RFS, another fire safety and preparedness campaign case;
 - Case 0264/18 by Transport for NSW concerning cars about to collide;
 - Case 0127/15 by Blumers Lawyers concerning a graphic workplace accident, with a commercial element.
- To point out that the Panel found the menace in these cases was justified in the context of a community safety awareness message, a road safety message, and a workplace safety message, findings which were inconsistent with the findings in the instant case.
- To note that the findings in these cases took account of the Practice Note for section 2.3 of the Code that depictions of violence are justified if relevant to the product being advertised.
- To note also that the advertisement was part of a number of advertisements which were also part of its First Saturday campaign.

Grounds for review

The complainant relied solely on one ground, namely, that ‘there was a substantial flaw in the Community Panel’s determination (determination clearly in error having regard to the provisions of the Codes or Initiatives, or clearly made against the weight of evidence)’, leading to a ‘substantial flaw’ in the Panel’s decision.

Code Principles

Section 2.3 of the Code of Ethics states:

Advertising or Marketing communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

The definition section of the Code states that ‘In this Code, unless the context otherwise requires:

Advertising or Marketing Communication means:

Any material which is published ... using any Medium or any activity which is undertaken by ... an advertiser ... and ... that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct.

Medium means any medium whatsoever including television.

The Practice Note to section 2.3 of the Code states, as relevant:

Consequences of violence may also be prohibited however graphic depictions of traffic accidents or the consequences of domestic violence may be justified by the community safety message involved. Sexual violence is not acceptable.



The Community Panel has also found that a strong suggestion of menace presents violence in an unacceptable manner and breaches this section of the Code. ...

Depiction of violence to promote a violent game may be acceptable provided it is relevant to the product advertised.

Role of reviewer

The Independent Reviewer first considers whether the application for review sets out a prima facie case for review and decides whether to accept or not accept the request. That decision depends on whether the complaint meets any of the required but limited grounds for review, namely, as relevant:

- Where there was a substantial flaw in the Community Panel's determination (determination clearly in error having regard to the provisions of the Codes or Initiatives, or clearly made against the weight of evidence).

'Substantial' is not defined in the Code or the Practice Note. A dictionary definition, as relevant, is:

'2. Of ample or considerable amount, quantity, size, etc'.¹

The definition indicates that the flaw must be significant and more than a minor error.

The Reviewer considered in this instance there was a prima facie case for review.

Reviewer's reasons

- There are several issues in interpreting and application of section 2.3 of the Code:
- The appropriate meanings of 'menace' amounting to 'violence' in section 2.3 of the Code, in the related Practice Note;
- What is the 'product or service';
- Whether the advertisement is relevant to the product or service or whether it draws the attention of the public to the product or service, directly or indirectly;
- Whether the Panel majority gave insufficient weight to that context in their application of section 2.3 of the Code and its related Practice Note; and
- Whether the Reviewer can consider the additional evidence provided for the purposes of the review

The issues are inter-related.

'Menace' and 'Violence'

The submission of the advertiser is that there is a substantial flaw in the finding of the Panel majority concerning the meaning of 'violence' in section 2.3 of the Code.

Meaning of 'menace' amounting to 'violence' in section 2.3 of the Code.

¹ *Macquarie Concise Dictionary*, (5th edn, 2009) 1258.



The Code does not define 'violence'. The Practice Note to the Code does indicate in its introduction to section 2.3 that 'a strong suggestion of menace presents violence in an unacceptable manner and breaches this section of the Code'. The examples given, however, note that violence may be justified by a community safety message, or if the advertisement is relevant to the product advertised.

The Macquarie Concise Dictionary defines 'menace' relevantly as: '1. Something that threatens to cause evil, harm, injury, etc; a threat'.²

The Macquarie Concise Dictionary defines 'violence' as '1. Rough force in action: the violence of the wind; 2. Rough or injurious action or treatment: to die by violence. 3. ... 4. A violent act or proceeding. 5. Rough or immoderate vehemence, as of feeling or language; fury; intensity; severity'.³

The tenor of the definitions, in their reference to 'evil, harm, injury' and 'rough, injurious or immoderate force' indicate that the impact of the 'menace' or the 'violence' is at the more harmful end of the spectrum of actions; the actions must result in something more than a fright or an apprehension of a fright. That meaning is supported by the examples of what is 'violence' referred to earlier in the Practice Note to section 2.3.

The finding of the Panel was that 'violence' need not refer solely to harm or potential harm caused by a person to another but could also extend to accidents or natural disasters. This finding is consistent with the definitions which are not limited to violent or menacing actions by an individual, and with previous AdStandards' determinations. The reviewer agrees with this finding.

The only violence for which justification is being sought is the danger from bushfires. The menace engendered by the advertisement stems both from the darkness, and the potential danger from the fire. Anyone who has experienced the advance of a bushfire would recognise this as a realistic reproduction of those circumstances. The darkness of the background to the advertisement, lit only by the flames from the bushfire, emphasises the abnormality of the situation and heightens anxiety. The advertiser admitted there was an intentional emotional impact.

The menace from the fire is capable of being described as 'rough force in action' or as leading to harm or injury due to nature's 'immoderate force'. The menace can be characterised as violent in nature because of its known potential to be harmful to property and persons. As a matter of common knowledge bushfires are at the more dangerous end of the circumstances listed in the definition.

In this advertisement the bushfire can be characterised as menacing and hence it meets the definition of violence in the terms of the Code, though it resulted from

² *Macquarie Concise Dictionary* (5th edn, 2009) 779.

³ *Macquarie Concise Dictionary* (5th edn, 2009) 1407.



natural, not human, causes. That finding, however, does not conclude the matter as the nature of the 'product or service' must be identified, and the context for the menace or violence must also be considered.

Product or service

The reasons require appropriate identification of the '*product or service*' advertised. That is required because the advertisement, if it is to be considered by the Panel must fall within the Code definition of Advertising or Marketing Communication' as an advertisement '*that draws the attention of the public in a manner calculated to promote ... directly or indirectly a **product**...*'. The definition is given prominence because the Code section 2.3 refers to 'product or service'.

The Panel majority made no explicit finding as to the nature of the 'product'. The majority referred only to the 'message' of the advertisement expressed as '*a home safety message and promoting an insurance brand*'; the minority found that the call to action for enhanced home safety was the product. None of the Panel identified the advertisement as involving a service although, in the view of the Reviewer, it would be possible to describe the 'First Saturday' campaign as a service being provided.

The advertiser inferred that the majority Panel had found the product to be insurance and objected to the categorisation. The advertiser claims the product should have been categorised solely as a safety campaign.

Safety campaign

The predominant focus of the material is the depiction of the firefighters' preparation for and travel to the bushfire. The impact of these events has made Australians aware of the dangers of such fires and they know that the intervention of firefighters is required to prevent damage.

That awareness has been reinforced by the graphic pictures on our television of wildfires, particularly in Australia and the United States, over the last couple of years. This means that as between the northern and southern hemispheres pictures of such fires on our televisions occur regularly throughout the year. This constant exposure has given prominence to the work of firefighters in combating such fires and the dangers they face in doing so. Gratitude to firefighters, particularly those who have moved interstate to assist, or even come from outside Australia to do so, has been lauded.

The advertisement, suggests however, that although most viewers are not firefighters, there is another direct and immediate way people in general can assist, namely, the steps suggested in the advertisements to fire-safety-proof homes on the First Saturday of each month. In the opinion of the Reviewer, that is a principal product of the advertisement. It is a message of preventative action. Set against the background of reminding viewers of the dangers to firefighters from bushfires, the advertisement is a call to action for a community safety program through which viewers can protect their homes and indirectly prevent danger to firefighters from



bushfires. The reference to the safety campaign is intended to draw the attention of the public directly to that product.

The safety message of the advertisement is evident in the words 'For all the days we felt we couldn't help, now there's a day we can', followed by the first 'First Saturday, 05.09.2020' followed by 'Dedicate the first Saturday of every month towards making your home safe'. Against the background of the bushfire and the work of firefighters in combating fires, and the reference to major bushfires experienced by Australians over the last quarter of a century, the words referring to the First Saturday campaign to protect homes, is the indication of the principal product being advertised.

The Reviewer does not agree with the complaint of one person that the print was so small that the reference to the campaign was not easily discernible. That it is the safety campaign which is the main purpose of the advertisement answers a question raised by the depiction of the bush fire and the firefighters, what is the message being promoted? That question is answered by the words in the final couple of frames referring to steps people can take to help prevent fires in their homes.

The principal product in the advertisement, In the opinion of the Reviewer, is a call to be involved in a safety campaign and so to prevent fires, and thus to limit the danger to firefighters from having to fight fires.

Insurance

In the advertisement there is no reference to insurance until the final frame shows the NRMA logo, a well-recognised insurance company. There is an issue about whether the depiction of the logo '*draws the attention of the public in a manner calculated to promote ... directly or indirectly a product*'

The logo contains no words recommending the viewers take out insurance with the company to help mitigate the losses caused by bush fires. The depiction of the logo attributes the advertisement for the safety campaign to the NRMA. In the opinion of the Reviewer that attribution does no more than acknowledge the corporate sponsorship of the safety campaign being advertised. There is no direct drawing of the attention of the public to the desirability of taking out insurance to the home to protect against fire damage.

Nonetheless, promotion of the insurance function of the company is indirect, because of the prominence of the logo and the fact that it is well-known that a function of the company is to provide insurance, including of homes. The implication is that insurance firms like NRMA insure property against fire and this attribution is calculated indirectly to draw the attention of the public to the insurance of homes' function of NRMA. That means the advertisement is calculated to draw the attention of the public indirectly to that function. That is a secondary function of the advertisement.

New evidence



The principal message or product about the safety campaign is strengthened by the other material from the campaign provided for the purposes of the review. All the additional frames refer to the First Saturday home safety campaign and the practical steps people can take to protect their homes.

Whether the additional material can be considered by the Reviewer raises an issue. The review process states in its reference to subsequently evidence that *'Where new or additional relevant evidence which could have a significant bearing on the determination becomes available ... an explanation of why this information was not submitted previously must be provided'*.

The explanation provided by the advertiser is that in this instance is that *'in light of the characterisation in the Determination that the Advertisement was an 'insurance' ad, IAG has provided these additional materials now to assist in clarifying this issue'*.

The Reviewer accepts that as the advertiser read the determination as finding that the sole product was 'insurance', there was a need to provide the additional material to clarify the intention of the NRMA that this was a safety campaign. That justifies the submission of the complementary material on the campaign.

Whether the Reviewer is entitled to take this additional material into account is determined by whether it would have a *'significant bearing on the determination'*. In the opinion of the Reviewer, the additional material supports the finding that this advertisement concerns a 'safety campaign'. However, the additional material would only have a significant impact ('bearing') on the determination if the Reviewer was of the opinion that there was a substantial flaw in the determination, justifying its re-determination by the Panel. That step depends on whether the advertisement sufficiently links the depiction to protection of homes. That issue is considered next under context.

Context of the menace or violence

Section 2.3 states that violence in an advertisement is *'justifiable in the context of the product ... advertised'*.

In identifying the context, the Practice Note, in the introduction to section 2, states that the second of two key questions to be asked in relation the section is: *'Does the material draw the attention of the public in a manner **calculated** to promote the product or service'?* (emphasis added)

That question relates to the Code definition of 'Advertising or Marketing Communication' which means, as relevant:

... any material ... that draws the attention of the public in a manner calculated to promote ... directly or indirectly a product, service, person, organisation or line of conduct.



The conclusions reached in this review are that there are dual products, a safety campaign and insurance. The issue is whether the depiction of the background bushfire and implied danger to firefighters is sufficiently justified in the context of the safety campaign and insurance.

The reference to the words in the advertisement '*Dedicate the first Saturday of every month towards making your home safe*' provides the message of the campaign and the purpose of the advertisement. The practical steps to achieving this safety are outlined in the complementary advertisements which reinforce that message.

The depiction of firefighting in the principal advertisement is a clear reference to firefighters attacking fires in the bush, but there is no depiction of the firefighters protecting domestic dwellings. The majority Panel found that the link between an advertisement depicting firefighters '*in a dangerous bushfire situation, and not, for example, a household fire*' was insufficient. Accordingly, the majority concluded that '*use of the menacing footage ... was not justified in the context of providing a home safety message and promoting an insurance brand*'. The absence of a sufficient link is also the view of some complainants.

The Reviewer would not have reached that conclusion on the ground that it is common knowledge that firefighting is designed to reduce the impact of bushfires because such fires cause damage to property, particularly homes, as well as danger to persons. Nonetheless, as this is a matter of opinion and the Reviewer has not found that the determination of the majority Panel contains a 'substantial' or significant 'flaw' in that the Panel failed correctly to apply the provisions of the Code or the Practice Note, or attributed too little weight to the evidence provided by the principal advertisement, there are insufficient grounds for the Reviewer to recommend a change to the determination. That also means that the additional material supplied by the advertiser cannot be taken into account since it would not make a significant difference to the outcome.

Conclusions

- 'Violence' and 'menace' in the context of section 2.3 refers to violence whether caused by persons or by nature at the more extreme end of the meanings of those terms;
- The principal 'product or service' is the safety campaign 'First Saturday', which is directly referred to in the advertisement;
- The secondary product is insurance, indicated by the logo for the NRMA at the end of the advertisement;
- Although the bushfire fighting element of the advertisement can be characterised as depicting 'violence', and there is direct reference to a safety campaign, the menace of the depiction is not justified, given the distress this is capable of causing to many people affected by bushfires even though the advertisement is designed to promote a safety campaign;
- That is so, because there is no substantial or significant flaw in the determination of the majority Panel that the depiction of firefighters battling



fire in the bush is insufficiently linked to the safety campaign product, namely protection of domestic dwellings;

- For that reason, the subsequent material supplied by the advertiser cannot have a 'significant bearing on the determination' and accordingly cannot be considered by the Reviewer.

As a consequence, the Reviewer recommends there is no need to undertake a redetermination.